

CITY OF CLEWISTON
Regular Commission Meeting
August 15, 2016

The City of Clewiston City Commission held its regular Commission Meeting in the City Hall Commission Chambers Monday, August 15, 2016. The meeting was called to order at 5:00 p.m. by Mayor Phillip Roland.

Ivan Cerda of Iglesia Vida Nueva gave the invocation and the audience joined in reciting the Pledge of Allegiance.

Commissioners Present: Mayor Phillip Roland, Vice Mayor Kristine Petersen, Commissioner Mali Gardner, Commissioner Sherida Ridgdill and Commissioner Julio Rodriguez.

Personnel Present: City Manager Al Perry, Interim City Clerk Kathy Combass, Finance Director Shari Howell, Police Chief Don Gutshall, Community Development Director Travis Reese, Code Enforcement Officer Debbie McNeil, Recreation Director Lance Ramer, Utilities Director Danny Williams, Library Director Ava Barrett, City Engineers Tommy Perry and Scott Jones, Karen Moore and Debbi Towner

Visitors Present: Gloria Rosen, Kevin McCarthy, Donnie Hughes, Michael Atkinson, Christine Howell, Asa and Betty Godsey, Jerry Cochrane, Raoul Bataller, Jimmy Pittman, Ivan Cerda, Hillary Hyslope, Gaile Carter and Attorney Gary Brandenburg

ADDITIONS/DELETIONS/CHANGES AND APPROVAL OF THE AGENDA

City Manager Perry stated he would like to add Agenda Item Nos. 1A and 18A. He stated he would like to pull Agenda Item Nos. 4, 5, 11, 12, 17 and 18.

1. Consent Agenda

- A. *Commission Workshop Minutes – June 16, 2016*
- B. *Commission Budget Workshop Minutes – June 16, 2016*
- C. *Commission Meeting Minutes – June 20, 2016*
- D. *Joint Hendry County Commission, Clewiston City Commission & Hendry County School Board Meeting Minutes – July 12, 2016*
- E. *Commission Workshop Minutes – July 14, 2016*
- F. *Commission Budget Workshop Minutes – July 14, 2016*
- G. *Commission Meeting Minutes – July 18, 2016*
- H. *Special Commission Meeting Minutes – August 1, 2016*

Commissioner Gardner made a motion, seconded by Commissioner Ridgdill, to approve the consent agenda. Vote 5 yeas, 0 nays

1A. Approval to advertise for Legal Counsel/Hiring of Interim Attorney

Mayor Roland advised that for the interim, Attorney Gary Brandenburg is in attendance to provide legal counsel.

Commissioner Gardner asked if qualification guidelines would be the same as in the past. City Manager Al Perry explained staff has pulled a few RFS. City Manager Perry stated he will send these to the Commission. Commissioner Gardner requested that Attorney Brandenburg review them also. Vice Mayor Petersen asked if we were going to continue to have counsel travel to Clewiston or if we were looking for in-house counsel. Commissioner Gardner stated we would advertise for both.

Commissioner Gardner made a motion, seconded by Commissioner Ridgdill, for staff to begin the work of the RFQ for the Clewiston City Attorney to be sent to the City Commission as well as to Interim City Attorney Brandenburg for review along with input from the Florida Municipal Attorney's League. Vote 5 yeas, 0 nays

PRESENTATION – FRDAP Grant – Morgan Tyrone, Park Ranger, Highlands Hammock and Lake June-In-Winter State Parks

Mr. Tyrone made his presentation at the City Commission Workshop on August 10, 2016.

PUBLIC HEARINGS

2. **Special Exception for Clewiston Commons, LLC (This agenda item was tabled from the July 18, 2016 City Commission Meeting to the August 15, 2016 City Commission Meeting at the Commission's request.)** – Pursuant to Chapter 110-395 of the City Code, Clewiston Commons, LLC is requesting a special exception to the permitted use standards for the properties located at 810 and 831 East Sagamore Avenue in order to use a Mobile Home/RV Park. The subject property is zoned Commercial.

Mayor Roland opened the public hearing by stating the purpose of this public hearing was to discuss and accept input from all interested parties relative to a Special Exception Request by Clewiston Commons, LLC and asked that all citizens desiring to speak on the matter identify themselves by name and address. He stated all public comments would be incorporated into the official minutes of this meeting and those giving testimony would be sworn in by Attorney Brandenburg.

City Manager Perry summarized the Special Exception Request and noted the request was advertised April 21, 2016 in the Clewiston News.

Mayor Roland asked if there were any comments oral or written relative to the special exception. There were none. Mayor Roland asked if there were any comments from the Commission. Mayor Roland stated the property was zoned commercial at the request of the same person asking for this special exception. Community Development Director Travis Reese agreed.

Commissioner Ridgill stated the property was designated mobile home/RV and rezoned as commercial in 2007. Community Development Director Reese said it is currently zoned commercial. Director Reese stated the property also had issues with the non-conforming lot size. He stated if you wanted to replace any non-conforming use in an improper zoning district, it would require a special exception from the Commission. Commissioner Ridgill asked if the current lot size requirements were in place in 2007 and Community Development Director Reese replied yes. Community Development Director Reese explained the designation of mobile home park and RV park. He said the designation of RM-1 allows for the use of RV's in a mobile home park. He stated City staff looks at this property as a mobile home park. We now have a mobile home park that is legal non-conforming. He stated it was legal for the mobile homes to remain; they are just not allowed to be replaced. The City cannot permit replacement of mobile homes with the commercial zoning in place.

Commissioner Gardner noted at the Planning and Zoning Board Meeting May 2, 2016, the recommendation was this special exception be denied.

As there were no further comments regarding this matter, Mayor Roland declared the public hearing closed.

Commissioner Rodriguez made a motion, seconded by Commissioner Gardner, to deny the Special Exception request. Vote 5 yeas, 0 nays

3. **Variance request from Gerardo Villegas** – The applicant, Gerardo Villegas, is requesting a variance to the setback standards to construct a home on a vacant lot at 402 East Ventura Avenue, a/k/a N 83 ft. of Lots 13 + 14, Block 367, General Plan of Clewiston. The property is zoned R-2. The Planning & Zoning Board met on August 1, 2016 and recommends the variance be approved as presented.

Mayor Roland opened the public hearing by stating the purpose of the public hearing was to discuss and accept input from all interested parties relative to a Variance Request for Gerardo Villegas and asked all citizens desiring to speak on this matter to identify themselves by name and address. He stated all public comments will be incorporated into the official minutes of this meeting and those giving testimony would be sworn in by Attorney Brandenburg.

City Manager Perry summarized the Variance Request and stated the request was advertised July 21, 2016 in the Clewiston News. Attorney Brandenburg swore in those desiring to speak.

Community Development Director Reese explained this was a variance request. There was a home on the lot that burned and over time this lot was reduced from 125 ft. to 83 ft. The applicant purchased the lot and when the applicant applied for a permit for construction of a new residence, it was discovered approximately 40 ft. of the lot had been subdivided off. He stated this lot is smaller than all other lots on this block. He feels this is no fault of the owner.

Mayor Roland asked for questions or comments from the Commission. Commissioner Gardner questioned Community Development Director Reese if at the P & Z Meeting, all six of the statements in Section 110-61 of the Code of Ordinances the applicant must attest to, were met. Community Development Director Reese stated the P & Z Board believes the applicant does meet those six statements. He stated the P & Z Board recommended approval of the variance at their meeting on August 1, 2016. Commissioner Rodriguez questioned how much of a backyard the owner would have and if the adjacent owner had any concerns. Director Reese stated the backyard would be 11 feet and he had not heard from the adjacent owner regarding any concerns. Reyna Villegas and Gerardo Villegas addressed the Commission and stated the new home will be 2300 square feet. City Engineer Tommy Perry clarified the new home would have 1903 square feet of living space. Mayor Roland questioned if there was room for a vehicle to get through the utility easement. Director Reese stated they would be able to squeeze through the hedge to get through. Mayor Roland stated he felt a home on this lot would look better than the vacant lot. Commissioner Ridgdill questioned Director Reese if the new home to be constructed could be placed to face San Benito Street and meet the required setbacks. Director Reese stated it is possible. He explained there would be two 25' front setbacks. Commissioner Ridgdill stated her concern was the applicant does not meet the requirement stated in Paragraph (2) of Section 110-61 of the Code of Ordinances because the applicant would have been aware of the easements and size of this lot when it was purchased in 2015. Director Reese explained the other lot owners on this block have extra depth, but this lot does not. He feels the applicant does have a lot that is unusual. Commissioner Gardner stated she understood the request for the rear setback variance but she felt the second request for the front setback variance was created by the size of the home to be constructed not by the lot size and therefore that circumstance did result from the action of the owner and would not meet the requirement stated in Paragraph (2) of Section 110-61 of the Code of Ordinances. Commissioner Ridgdill stated she still feels if the home is constructed to face San Benito Avenue, it may meet the setback requirements. Director Reese explained that would require the applicants to come back with another site plan. Mayor Roland stated he had no problem with the applicant's request. Commissioner Gardner stated she did not either, but this matter does not follow the City's Code and she believes the Code should be followed. Commissioner Ridgdill questioned if this public hearing could be continued if the applicant agreed. Commissioner Rodriguez stated he felt the Commission should not decide which direction the home should face. That should be the applicant's decision. Director Reese stated this variance request is for the land and conditions cannot be placed on a variance request. He also stated this lot is smaller than every other lot on this block and he feels it is not the fault of the owner. Commissioner Rodriguez stated he feels because of the irregular lots in the City of Clewiston, the City may end up with vacant lots. He would like to find a solution. Commissioner Ridgdill questioned if there was anything that would prevent the applicant from building a 2 story home on this lot. Director Reese stated a 2 story home would be allowed. Attorney Brandenburg stated the Commission could set the public hearing to a date certain to continue it without having to re-advertise. If the date certain is missed, the public hearing will need to be re-advertised. Mayor Roland stated he agreed with the requirements stated in the Code but feels there is enough room for this home to sit on this lot without looking out of place. Commissioner Ridgdill stated it looks as if the entry of the home is the only portion of the home that encroaches into the front setback. Director Reese stated he was not sure but the entry is required. Commissioner Ridgdill noted the home directly behind this lot and the homes to the right of this lot do not meet the code requirements. Commissioner Gardner noted the apartments located to the right of the lot were built in the 1930's. Commissioner Rodriguez stated the City either needs to go by the requirements or do away with them. He

recommends the City try to make this work within the requirements. Raoul Bataller addressed the Commission and stated he does not feel there is a hardship with this lot.

Commissioner Ridgill made a motion, seconded by Commissioner Gardner, to continue the public hearing to September 19, 2016. Vote 5 yeas, 0 nays

ORDINANCE

4. **Ordinance No. 2016-03 - First Reading (This agenda item was tabled from the July 18, 2016 Commission Meeting)** – Ordinance 2016-03 amends division 10. C General Commercial District, Chapter 110 Zoning by adopting a new Section 110-401 “Special Exception to Height Regulations; Special Exception Structures” authorizing the City Commission to increase the maximum building height in the C General Commercial District by special exception upon application review and public hearing; provides authority to codify, a conflicts clause, a severability clause; provides an effective date; and provides for other purposes.

This Agenda Item was pulled as noted above until new legal counsel reviews this ordinance.

5. **Ordinance No. 2016-04 - First Reading** – Ordinance 2016-04 amends Chapter 18-Buildings and Building Regulations to adopt a new Article X. “Residential Rental and Inspection”; provides authority to codify, a conflicts clause, a severability clause; provides an effective date; and provides for other purposes.

This Agenda Item was pulled as noted above until new legal counsel reviews this ordinance.

RESOLUTION

6. **Resolution No. 2016-05** – Resolution 2016-05 in support of submission of an “Our Town Grant”

City Manager Perry read Resolution No. 2016-05 by title.

Commissioner Gardner made a motion, seconded by Vice Mayor Petersen, to approve Resolution No. 2016-05. Vote 5 yeas, 0 nays

Commissioner Ridgill requested confirmation there would be no matching grants or expenses the City would be required to pay. City Manager Perry stated there were none at this point.

7. **Resolution No. 2016-06** – Resolution 2016-06 creates a budget amendment for an inter-fund loan to the General Fund from the Water Sewer Enterprise Fund (approved by the Commission on July 18, 2016) and also creates budget amendments to the State Library Fund.

City Manager Perry read Resolution No. 2016-06 by title.

Commissioner Gardner made a motion, seconded by Commissioner Ridgill, to approve Resolution No. 2016-06. Vote 4 yeas, 1 nay (Commissioner Rodriguez voted nay)

Before the vote, Commissioner Ridgill asked if there was a repayment plan in place. Finance Director Shari Howell replied there was.

MISCELLANEOUS ACTION AND DISCUSSION ITEMS

8. **Award of 2016 Road Reconstruction Project** – The City advertised for bids for the Road Reconstruction Project on July 14, 2016. The bids will be opened on August 9, 2016 at 2:00 pm. Staff and City Engineers Tommy Perry and Scott Jones with Johnson-Prewitt & Associates, Inc. will have a recommendation.

He stated the recommendation at the Workshop was to award the bid to Weekley Asphalt Paving in the amount of \$26,902.35. City Engineer Scott Jones explained this 2016 Road Reconstruction Project is to mill and pave the alley closest to Aztec Avenue on WC Owen and a small section of Saginaw Avenue.

Commissioner Ridgill made a motion, seconded by Vice Mayor Petersen, to award the 2016 Road Reconstruction Project to Weekley Asphalt Paving in the amount of \$26,902.35. Vote 5 yeas, 0 nays

Commissioner Gardner questioned if these roads were the most critical. Engineer Jones stated they were the most critical along with the roads to be done in the 2016 Overlay Paving Project under Agenda Item No. 10.

9. **Award of 2016 West Boat Basin Parking Overlay Project** – The City advertised for bids for the West Boat Basin Parking Overlay Project on July 14, 2016. The bids will be opened on August 9, 2016 at 2:00 pm. Staff and City Engineers Tommy Perry and Scott Jones with Johnson-Prewitt & Associates, Inc. will have a recommendation.

City Manager Perry stated the recommendation at the Workshop was to award this project to Weekley Asphalt Paving in the amount of \$16,049.50. Mayor Roland questioned if the City should do this paving project before the project now in progress at the boat basin is complete. Engineer Jones explained this is an attempt to maintain the parking lot in the area of highest travel into the Boat Basin Parking. Funds for this will be coming out of the Boater Improvement Fund Money. City Engineer Tommy Perry stated they were only repairing the portion that was critical.

Commissioner Ridgill made a motion, seconded by Vice Mayor Petersen, to award the 2016 Boat Basin Parking Overlay Project to Weekley Asphalt Paving in the amount of \$16,049.50. Vote 5 yeas, 0 nays

10. **Award of 2016 Overlay Paving Project** – The City advertised for bids for the Overlay Paving Project on July 14, 2016. The bids will be opened on August 9, 2016 at 2:00 pm. Staff and City Engineers Tommy Perry and Scott Jones with Johnson-Prewitt & Associates, Inc. will have a recommendation.

City Manager Perry stated City Engineers recommended this project be awarded to Weekley Asphalt Paving in the total amount of \$117,764. He stated Weekley Asphalt matched the low bid of Community Asphalt. Engineer Scott Jones explained the process of selecting the overlay and additional striping on Berner Road. The alternate bid was for the cost of using thermoplastic striping. Commissioner Ridgill questioned the local bidder preference process. Engineer Jones said the local bidder preference process is based on 10% contingency and he confirmed that Weekley accepted the lowest bid rate. Engineer Jones clarified this project is under the FY2016 budget.

Commissioner Gardner made a motion, seconded by Vice Mayor Petersen, to award the 2016 Overlay Paving Project to local vendor, Weekley Asphalt Paving for the base bid and alternative bid amount of \$117,764. Vote 5 yeas, 0 nays

11. **Discussion regarding Residential Rental and Inspection Program** – This agenda item was tabled from the July 18, 2016 City Commission Meeting.

This Agenda Item was removed as noted above.

12. **Discussion regarding Vacant Property Ordinance** – This agenda item was tabled from the July 18, 2016 City Commission Meeting.

This Agenda Item was pulled as noted above until new legal counsel reviews this matter.

13. **Service Agreement – Chamber of Commerce** – This agreement states the City will pay the Chamber of Commerce \$5,000 per year in exchange for the use of the Chamber of Commerce's public notice sign and tour bus upon request.

Vice Mayor Petersen made a motion, seconded by Commissioner Gardner, to approve the Service Agreement with the Chamber of Commerce.

Before the vote, Hillary Hyslope addressed the Commission and asked for consideration of adding the use of City facilities two times a year such as the Chamber Dinner and possibly the Candidate Forum or the July 4th celebration. Commissioner Ridgill verified these would be public events and stated she feels the City should add this as a provision to the contract. Mayor Roland feels the Chamber Dinner and July 4th event should be allowed. Commissioner Ridgill requested commissioners to retract the previous motion. Vice Mayor Petersen stated she would amend her motion to include the use of facilities two times per year. Commissioner Gardner stated she agreed.

Attorney Brandenburg suggested adding the use of the facilities for the Chamber Dinner and one additional event to Section IV of the Service Agreement. Mayor Roland stated he would like the Chamber of Commerce to come before the Commission prior to each use. Commissioner Gardner said she feels this can be added to the agreement along with the other language. Attorney Brandenburg clarified the addition to be the use of the facilities for the Chamber Dinner and one other event to be approved by the Commission.

Vice Mayor Petersen amended the motion, seconded by Commissioner Gardner, to approve the Service Agreement with the Chamber of Commerce adding the use of City facilities two times per year and appearing before the Commission prior to use to Section IV of the Service Agreement. Vote 5 yeas, 0 nays

14. **Service Agreement – Clewiston Museum** – This agreement states the City will pay the Clewiston Museum \$5,000 per year and pay the utility bills for one year in exchange for the use of the Museum's conference room for public meetings.

Commissioner Gardner made a motion, seconded by Commissioner Ridgill, to approve the Yearly Service Agreement with the Clewiston Museum. Vote 5 yeas, 0 nays

15. **Approval of Turf Management Services Agreement** - Approval of this agreement will provide contractual services for Agronomic Consulting Enterprises, LLC to continue to maintain the golf course and sports complex fields for one year in the amount of \$15,000.

Commissioner Ridgill made a motion, seconded by Commissioner Gardner, to approve the Turf Management Services Agreement to provide contractual services for Agronomic Consulting Enterprises, LLC to continue to maintain the golf course and sports complex fields for one year in the amount of \$15,000. Vote 5 yeas, 0 nays

Before the vote, Vice Mayor Petersen asked which sports complex fields this agreement pertained to. Commissioner Ridgill stated these would be under the direction of Recreation Director Lance Ramer and Mr. Ramer agreed.

16. **Approval of utilizing a contribution from the United States Sugar Corporation as partial funding support for the approved capital project of redoing the greens at the golf course.**

Commissioner Gardner made a motion, seconded by Commissioner Ridgill, to approve utilizing the contribution from United States Sugar Corporation in the amount of \$25,000 as partial funding support for the approved capital project of redoing the greens at the golf course and allow staff to combine the contribution receipt with a budget transfer from the contingency. Vote 4 yeas, 1 nay (Commissioner Rodriguez voted nay)

Commissioner Rodriguez stated he would like to use the funds for something else. City Manager Perry reminded the Commission these funds were earmarked for the golf course.

17. **Approval of Change Order No. 1 for the 2015 West Pasadena Drainage Project** – This Change Order is needed to construct an additional 55.136 feet of 5'-wide concrete sidewalk which will replace some sidewalk contiguous to the project that has been previously damaged. It also allows for a longer slope to meet ADA requirements.

This Agenda Item was pulled as noted above until City Engineer, Public Works Director and City Manager review the entire project and make a recommendation to the Commission.

18. **Discussion regarding final payment to LCCI Construction, LLC for the 2015 West Pasadena Drainage Project** – City Engineer Scott Jones

This Agenda Item was pulled as noted above until the City Engineer, Public Works Director and City Manager review the entire project and make a recommendation to the Commission.

- 18A. **Memorandum of Agreement No. F1214 Between the City of Clewiston, State of Florida and Department of Economic Opportunity** – This Memorandum of Agreement documents the terms and conditions of the implementation of the Rural Area of Critical Economic Concern re-designation. The Memorandum of Agreement maintains the City's Rural Economic Development Initiative (REDI) designation and is generally renewed every five (5) years and was last renewed in 2011.

Commissioner Gardner made a motion, seconded by Commissioner Ridgill, to approve the Memorandum of Agreement No. F1214 and authorize the Mayor to sign. Vote 5 yeas, 0 nays

19. **Departmental Monthly Activity Reports** - Presented for information only.

PUBLIC COMMENTS - none

COMMENTS FROM CITY MANAGER - none

COMMENTS FROM THE CITY ATTORNEY- none

COMMENTS FROM THE CITY COMMISSION- Commissioner Rodriguez requested an update on East Rec and Hampton Inn from Utilities Director Danny Williams. Commissioner Rodriguez stated he wanted to see the Hampton Inn happen and did not want the buyer to get buyer's remorse. Mayor Roland asked Attorney Perez what the City needed to do so that Hampton Inn could break ground this year and he asked Utilities Director Williams if the City is doing everything in its power to see that this happens. Director Williams informed the Commission he is working with CenturyLink and Comcast in completing the design needed to move forward. Attorney Perez stated the buyer is being approached with offers from other areas, but he feels the Buyer is still committed. Commissioner Rodriguez questioned why staff didn't take the opportunity to install infrastructure at the time of the Pasadena Project. He feels the City needs to study improvements going forward. He said we need to keep encouraging the big box stores. He does not want to lose the opportunity for the Hampton Inn.

Commissioner Gardner expressed her feelings on moving forward and Commissioner Ridgill expressed her feelings on moving forward with controlled growth. Commissioner Gardner said we need to focus on the future and how growth will impact the City along with economic development. She said she believes the staff we have in place will do what they need to do to make things happen and show the City is open for business.

Vice Mayor Petersen stated there is an important meeting tomorrow night at 6:00 pm at the John Boy Auditorium about water issues. Commissioner Gardner agreed we need to make sure our voice is heard. The agenda tomorrow night is regarding the Western Everglades. Clewiston needs to stand strong and stand up for our town and make our voices heard by the District and the Corp of Engineers.

Commissioner Gardner stated Palm Beach County Board of County Commissioners is coming with a resolution urging Congress to provide the necessary funding to complete the Herbert Hoover Dike repairs and ensure the health, safety and welfare of the communities around the Lake. She said we should be urging the U. S. Army Corp of Engineers to complete the necessary repairs to the Herbert Hoover Dike and manage the water level of the Lake in a manner to reduce economic impact. She said the County is working on a resolution that should be available at their next meeting and questioned if there is a resolution the City should pass in regard to the rehabilitation of Herbert Hoover Dike. She would like to have this matter on the agenda at next month's meeting. Commissioner Ridgdill agreed with both Commissioner Gardner and Vice Mayor Petersen. She stated we all should not hesitate to contact legislators.

Commissioner Ridgdill asked if the Commission is going to entertain restrictions on Commerce Park. Community Development Director Reese stated the P & Z Board will have a final draft at their next meeting. Commissioner Gardner stated she would like to see the draft that will go before the P & Z Board and feels the other Commissioners should receive a copy as well. Director Reese stated the draft was sent to legal for review.

Mayor Roland stated if Palm Beach County Board of Commissioners adopts a resolution that allows for reinforcing the dike so the water levels can be increased in the Lake, he feels the higher levels will kill the Lake. He said the number one concern should be storing water north of the Lake. Vice Mayor Petersen stated her concern with the increased water in the Lake during a heavy rain season and the limits to storing that water.

Commissioner Rodriguez asked if the City was going to continue to use Attorney Brandenburg as counsel.

Commissioner Ridgdill made a motion, seconded by Commissioner Gardner, to allow the City Manager to obtain interim legal counsel until such time that permanent counsel is in place. Vote 5 yeas, 0 nays

Commissioner Gardner thanked Attorney Brandenburg for his assistance in this process.

ADJOURNMENT

The meeting was adjourned at 6:46 p.m.

Phillip Roland, Mayor

Mary K. Combass, Interim City Clerk